

Remarks

The Office Action dated February 7, 2008 listed the following rejections: claims 8-10 stand rejected under 35 U.S.C. § 112(2); claims 1 and 3 stand rejected under 35 U.S.C. § 102(b) over Schneider (U.S. Patent No. 6,377,633); claims 4 and 5 stand rejected under 35 U.S.C. § 102(b) over Nagaraj (U.S. Patent No. 6,041,084); and claim 6 stands rejected under 35 U.S.C. § 103(a) over Nagaraj in view of the Bradbeer reference (U.S. Patent No. 5,130,543). The following objections are also noted: an objection to the declaration, an objection to the specification, and an objection to claims 4-9. In addition, claims 2 and 7 would be allowed if rewritten in independent form, as would claims 8-10 if amended to overcome the § 112(2).

In response to the potential allowability of claims 2 and 7, Applicant has rewritten claims 2 and 7 to be in independent form including aspects of the base and any intervening claims. Thus, Applicant submits that, as is consistent with the instant Office Action, claims 2 and 7 are in condition for allowance.

Applicant respectfully traverses the § 112(2) rejection of claims 8-10 because explicit antecedent basis is not required. *See, e.g.,* M.P.E.P. § 2173.05(e). In an effort to facilitate prosecution, Applicant has amended claims 8 and 10 to replace the first and second peak detectors with a first peak detector and a second peak detector. Accordingly, Applicant requests that the § 112(2) rejection of claims 8-10 be withdrawn. In addition, Applicant submits that, as is consistent with the instant Office Action, claim 10 is in condition for allowance and claims 8-9 should be indicated as allowable. Applicant has also added new claims 11-15, which contain aspects similar to those of claim 8 that were indicated by the Office Action as forming the basis for claim 8 being allowable over the cited references. Thus, Applicant submits that, as is consistent with the instant Office Action, claims 11-15 are in condition for allowance.

Applicant respectfully traverses the § 102(b) rejection of claims 1 and 3 because the cited portions of the Schneider reference do not correspond to the claimed invention which includes, for example, aspects directed to measuring noise levels of a binary signal and adjusting the slice level based on the measured noise levels. The Office Action erroneously asserts that the cited portions of Schneider teach measuring noise levels of the high and low levels of a binary signal. Instead Schneider measures and stores the negative and positive

peak signal values of the binary signal (*see, e.g.*, Col. 7:35-47) and uses these values to set the reference level (*e.g.*, 34 in Figure 3) to be midway between the stored peak values (*see, e.g.*, Col. 7:8-14). Schneider simply measures the peak values of the binary signal and adjusts the reference level accordingly. The cited portions of Schneider do not mention measuring the noise levels of the negative and positive portions of the binary signal and then adjusting the slice level based on these noise levels as in the claimed invention. Accordingly, the § 102(b) rejection of claims 1 and 3 is improper and Applicant requests that it be withdrawn.

Applicant respectfully submits that the § 102(b) rejection of claims 4 and 5 cannot stand because the cited portions of the Nagaraj reference do not correspond to the claimed invention which includes, for example, aspects directed to a first shifter that subtracts the noise indication signal from the signal levels of the binary signal to produce the shifted input signals that are received by the noise peak level detection unit. The cited portions of the Nagaraj reference do not teach that offset voltage V_{OS} (*i.e.*, the Office Action's alleged noise indication signal) is subtracted from positive binary signal V_{OP} to produce the voltage V_{OP2} that is provided to positive peak detector 20H and that offset voltage V_{OS} is subtracted from negative binary signal V_{ON} to produce the voltage V_{ON2} that is provided to negative peak detector 20L. *See, e.g.*, Figure 4. Instead the Nagaraj reference teaches adding the offset voltage V_{OS} to the negative binary signal V_{ON} to produce the voltage V_{ON2} that is provided to negative peak detector 20L. *See, e.g.*, Figure 5 and Col. 4:12-27. Accordingly, Applicant requests that the § 102(b) rejection of claims 4 and 5 be withdrawn.

Applicant respectfully submits that the § 103(a) rejection of claim 6 cannot stand because the cited portions of the Nagaraj reference do not correspond to the claimed invention as discussed above in relation to the § 102(b) rejection of claim 4. In at least this regard, the rejection of claim 6 is improper because claim 6 depends from claim 4. Accordingly, Applicant requests that the § 103(a) rejection of claim 6 be withdrawn.

Regarding the Office Action's assertion that the oath or declaration is defective, Applicant submits that the Declaration does contain a statement acknowledging the duty to disclose under 37 C.F.R. § 1.56. For convenience, Applicant has attached a copy of the Declaration January 26, 2005 with the relevant portion highlighted. Thus, Applicant requests that the objection to the Declaration be removed.

Regarding the Office Action's suggestion to add headings, Applicant respectfully declines because the indicated suggestions in 37 C.F.R. § 1.77(b) are not statutorily required for filing a non-provisional patent application under 35 USC § 111(a), but per 37 C.F.R. § 1.51(d) are only guidelines that are suggested for applicant's use. They are not mandatory, and in fact when Rule 77 was amended in 1996 (61 FR 42790, Aug. 19, 1996), Bruce A. Lehman, Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, stated in the Official Gazette:

"Section 1.77 is permissive rather than mandatory. ... 1.77 merely expresses the Office's preference for the arrangement of the application elements. The Office may advise an applicant that the application does not comply with the format set forth in 1.77, and suggest this format for the applicant's consideration; however, the Office will not require any application to comply with the format set forth in 1.77."

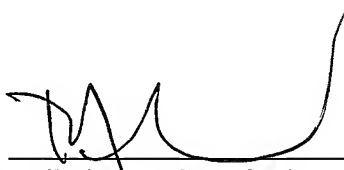
In view of the above, Applicant prefers not to add section headings and Applicant requests that the objection to the specification be withdrawn.

In response to the objection to claims 4-9, Applicant has amended claim 4 in a manner consistent with that suggested by the Office Action. Thus, Applicant requests that the objection to claims 4-9 be removed.

In view of the remarks above, Applicant believes that each of the rejections/objections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063.

Please direct all correspondence to:

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Attachment: copy of Declaration filed on January 26, 2005

COMBINED DECLARATION FOR PATENT APPLICATION AND POWER OF ATTORNEY
(Includes Reference to PCT International Applications)

ATTORNEY'S DOCKET
NUMBER
PHNL020697 US

I, s a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **"Method and device for setting the slice level in a binary signal"** the specification of which (check only one item below):

☐ is attached hereto.

☐ was filed as United States application

Serial No

on

and was amended

on

☒ was filed as PCT international application

Number PCT/IB2003/002934

On 27 June 2003

and was amended under PCT Article 19

on

(if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

PRIOR FOREIGN/PCT APPLICATION(S) AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. 119:

COUNTRY	APPLICATION NUMBER	DATE OF FILING DAY, MONTH, YEAR	PRIORITY CLAIMED UNDER 35 USC 119
Europe	02078148.0	31 July 2002	YES

U.S. DEPARTMENT OF COMMERCE -Patent and Trademarks Office
(July 1994)

Combined Declaration For Patent Application and Power of Attorney (Continued) (includes Reference to PCT International Applications)				Attorneys Docket Number PHNL020697 US	
POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. (List name and registration number)					
Jack E. Haken, Reg. No. 26,902 Michael E. Marion, Reg. 32,266 Edward M. Blocker, Reg. No. 30,245				Direct Telephone Calls to: (name and telephone number) (914)332-0222	
201	FULL NAME OF INVENTOR	FAMILY NAME <u>HEIJNA</u>	FIRST GIVEN NAME <u>Roeland</u>		SECOND GIVEN NAME <u>John</u>
	RESIDENCE & CITIZENSHIP	CITY <u>Nijmegen</u> NLX	STATE OR FOREIGN COUNTRY <u>The Netherlands</u>		COUNTRY OF CITIZENSHIP <u>The Netherlands</u>
	POST OFFICE ADDRESS	POST OFFICE ADDRESS <u>Gerstweg 2</u>	CITY <u>6534 AE Nijmegen</u>		STATE & ZIP CODE/COUNTRY <u>The Netherlands</u>
	I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true: and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 if Title 18 of the United states Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.				
<div style="border: 1px solid black; height: 60px; width: 100%; position: relative;"> <div style="position: absolute; top: 5px; left: 5px;">SIGNATURE OF INVENTOR 201</div> </div>					
<div style="border: 1px solid black; height: 20px; width: 100%; position: relative;"> <div style="position: absolute; top: 5px; left: 5px;">DATE</div> 26 February 2004 </div>					

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(July 1994)